

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

HAROLD W. NOEL, JR.,

Plaintiff,

v.

TOM WOLF, *et al.*,

Defendants.

No. 4:20-CV-00430

(Judge Brann)

(Magistrate Judge Arbuckle)

ORDER

SEPTEMBER 22, 2020

Harold W. Noel, Jr., filed this action seeking declaratory judgment that his Pennsylvania state court sentence is invalid.¹ On July 13, 2020, Magistrate Judge William I. Arbuckle granted Noel's motion to proceed *in forma pauperis*, but concluded that Noel may not seek declaratory judgment before first filing a petition for a writ of habeas corpus, and therefore directed Noel to file an amended complaint within 30 days.² More than thirty days elapsed and Noel did not file an amended complaint but, instead, filed a motion to proceed on the original record.³ Accordingly, on September 4, 2020, Magistrate Judge Arbuckle issued a Report and Recommendation recommending that this Court dismiss Noel's complaint for failure

¹ Doc. 1.

² Docs. 10, 11.

³ Doc. 14.

to state a claim and close this case.⁴ No timely objections were filed to this recommendation.

Where no objection is made to a report and recommendation, this Court will review the recommendation only for clear error.⁵ Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the findings or recommendations made by the magistrate judge.⁶ Upon review of the record, the Court finds no clear error, clear or otherwise, in Magistrate Judge Arbuckle's recommendation. Consequently, **IT IS HEREBY ORDERED** that:

1. Magistrate Judge William I. Arbuckle's Report and Recommendation (Doc. 16) is **ADOPTED**;
2. Noel's complaint is **DISMISSED**; and
3. The Clerk of Court is directed to **CLOSE** this case.

BY THE COURT:

s/ Matthew W. Brann
Matthew W. Brann
United States District Judge

⁴ Doc. 16.

⁵ FED. R. CIV. P. 72(b), advisory committee notes; *see Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining that court should in some manner review recommendations regardless of whether objections were filed).

⁶ 28 U.S.C. § 636(b)(1); Local Rule 72.31.